

Plaintiff is a frequent litigator who has had several cases dismissed for failure to state a claim or as frivolous under 28 U.S.C. § 1915. *See Moland v. Welch*, No. 00-0090-HFS (W.D. Mo. 2000); *Moland v. Winegarner*, No. 00-1184-HFS (W.D. Mo. 2000); *Moland v. Del Muro*, No. 00-1236-HFS (W.D. Mo. 2000); *Moland v. Nixon*, No. 02-4196-NKL (W.D. Mo. 2002); *Moland v. Del Muro*, No. 04-0210-GAF (W.D. Mo. 2004).

Furthermore, plaintiff's claims challenge his criminal sentencing and should be brought via a writ of habeas corpus, and are not such that plaintiff faces any type of imminent danger of physical injury. Accordingly, plaintiff is not entitled to proceed under 28 U.S.C. § 1915.

IT IS, THEREFORE, RECOMMENDED that plaintiff be denied leave to proceed in forma pauperis, and his claims dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(g), because plaintiff has had three or more cases dismissed as frivolous or for failure to state a claim.

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. If additional time is needed, a motion for an extension of time must be filed within twenty days. The motion should state the reasons for the request. *See Nash v. Black*, 781 F.2d 665, 667 (8th Cir. 1986) (citing *Thomas v. Arn*, 474 U.S. 140 (1985)); *Messimer v. Lockhart*, 702 F.2d 729 (8th Cir. 1983). Failure to make specific written exceptions to this report and recommendation may result in a waiver of the right to appeal.

Dated this 13th day of December, 2004, at Jefferson City, Missouri.

/s/ _____

WILLIAM A. KNOX
United States Magistrate Judge